UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/834,500	04/12/2001	Mike Cristofalo		5803

7590   07/17/2007

ACTV, INC.
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EXAMINER
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ART UNIT	PAPER NUMBER
3622	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>25 May 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-34,52-78 and 195-200* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-34,52-78 and 195-200* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

1.   Claims 1-34, 52-78 and 195-200 have been examined. Application 09/834,500

(SYSTEM AND METHOD FOR TARGETING OBJECT ORIENTED AUDIO AND VIDEO

CONTENT TO USERS) has a filing date 04/12/2001.

Response to Amendment

2.   In response to Non Final Rejection filed 01/16/2007, the Applicant filed a

Request for Reconsideration on 04/16/2007.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed
> or described as set forth in section 102 of this title, if the differences between the
> subject matter sought to be patented and the prior art are such that the subject
> matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was
> made.

Claims 1-34, 52-57, 61-78 and 195-200 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Picco et al (U.S. 6,029,045) in view of Flickinger (US

2005/0210502).

As per claims 1, 17, 26, 52, 66 and 73, Picco teaches:

A system for transmitting a media object containing content targeted to a user

based upon a user profile comprising:

an input port for receiving a media object containing content targeted to a user

profile (see column 13, lines 35-55),

a transmitting system, connected to the input port, which transmits the media

object in a programming signal to a user associated with the user profile (see column

14, lines 1-17);

whereupon receiving the media object from the input port, the transmitting

system determines the user profile targeted by the media object, identifies a user

associated with the user profile, and transmits the media object to the identified user

(see column 1, lines 49-59; column 6, lines 25-37),

Picco does not expressly teach wherein the *transmitted* media object is part of a

program composition comprising multiple media objects presented simultaneously and

the *transmitted* media object is targeted separately from at least one other media object

in the composition. However, Flickering teaches a system that replace existing ads in a

MPEG program with alternate ads according to users' profiles, where said alternate ads

are inserted directly into a portion of a screen during the actual programming (see

Flickering paragraphs 34, 41, 42). Therefore, it would have been obvious to a person of

ordinary skill in the art at the time the application was made, to know that Picco would

replace existing ads in a program with alternate ads according to users' profiles by

inserting said alternate ads into a portion of a screen during the actual programming.

Picco and Flickering would take advantage of all the ad replacements' availabilities in

said program in order to maximize profits, as advertisers would be charged for all the

available spots in said program which were replaced with target separately ads (*i.e.*

target ads from different advertisers) that were presented simultaneously during the

actual programming. Furthermore, Picco teaches inserting video ads into a video

stream and inserting audio ads into a audio stream and transmitting said video and audio stream to a user based upon said user profile (see Picco col 12, lines 25-60). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Picco and Flickering would simultaneously target a user with a car advertisement and an audio ad by inserting said car and audio ad into a video and audio stream, and transmitting said video and audio stream to said user during the actual programming of said streams, where said targeting would be based upon said user's profile.

As per claims 2, 18, 29, 62 and 67, Picco teaches:

The system of claim 1, wherein the user profile is based upon information selected from the group consisting of: response by a user to a survey, demographic information, user viewing habits, selection of a media object by a user during a programming signal, purchase behavior, a compilation of viewing habits from at least two users, statistical information, and regional information (see column 2, lines 55-58; figure 4, item 152; column 7, lines 5-32).

As per claims 3 and 19, Picco teaches:

The system of claim 2, wherein the user profile is generated by a user profiling system located with the transmitting system (see figure 4, item 150, 152).

As per claims 4, 20, 30, 53 and 70, Picco teaches:

The system of claim 1, wherein the programming signal further comprises a signal in a form selected from the group consisting of: a video signal, an audio signal, a combined audio and video signal, animation, text, graphics, multimedia, slow frame

video, video stills, sequence of individual frames, virtual reality, live, pre-recorded,

natural, synthetic, combined natural and synthetic, and computer generated content

(see column 3, lines 1-14; column 13, lines 19-23).

As per claims 5 and 21, Picco teaches:

The system of claim 1, wherein the programming signal is transmitted by the

transmitting system to a receiving system via a transmission medium selected from the

group consisting of: broadcast, microwave, millimeter wave, wireless, wireline, satellite,

cable, and fiber optics (see column 1, lines 10-13, column 14, lines 58-67).

As per claims 6, 31 and 55, Picco teaches:

The system of claim 1, wherein the media object is received by the input port

over a transmission medium selected from the group consisting of: broadcast, wireless,

wireline, microwave, millimeter wave, satellite, cable, and fiber optics (see column 14,

lines 58-67).

As per claims 7 and 75, Picco teaches:

The system of claim 1, wherein the transmitting system further comprises a

wireless system selected from the group consisting of: television broadcasting system,

radio broadcasting system, microwave systems, millimeter wave systems, infrared

systems, wireless telecommunications system, and a satellite broadcasting system (see

column 14, lines 1-17).

As per claim 8, Picco teaches:

The system of claim 1, wherein the transmitting system further comprises a wired

system utilizing a communications medium selected from the group consisting of: cable,

coaxial cable, twisted pair cable, fiber-optic cable, telephone cable, and closed circuit

cable (see column 7, lines 10-16).

As per claims 9, 22, 32, 65 and 71, Picco teaches:

The system of claim 1, wherein the input port receives the media object via a

stand-alone system from a data storage medium selected from the group consisting of:

compact disc, digital versatile disc, video tape, gaming cartridge, memory stick,

magnetic storage medium, optical storage medium, Flash memory, random access

memory, and read only memory (see figure 8).

As per claims 10 and 68, Picco teaches:

The system of claim 1, wherein the transmitting system transmits the

programming signal to the user via at least one network selected from the group

consisting of: the Internet, intranet, private network, wired network, ATM network,

wireless network, wide area network, local area network, and a public network (see

column 14, lines 58-67).

As per claim 11, Picco teaches:

The system of claim 10, wherein the programming signal is streamed to the user

over the network (see column 14, lines 1-17).

As per claims 12, 23, 27, 54, 72, 74 and 78, Picco teaches:

The system of claim 1, wherein the media object is transmitted in a format

selected from the group consisting of: MPEG-1, MPEG-2, MPEG-4, MPEG-7, JPEG,

motion JPEG, GIFs, Quicklime, ActiveMovie, DVI, and Indeo (see column 2, lines 1-27;

column 11, lines 49-67).

As per claim 13, Picco teaches:

The system of claim 1, wherein the transmitting system utilizes a transmission protocol selected from the group consisting of: RTP, UDP, TCP/IP, and ATM to transmit the programming signal (see column 14, lines 58-67).

As per claims 14, 24, 33, 56 and 76, Picco teaches:

The system of claim 1, wherein the programming signal includes at least one media object containing content related to at least one program type selected from the group consisting of: news program, sports program, virtual reality program, entertainment program, music video, game show program, motion picture program, video program, live program, audio program, polling question, educational program, non-commercial program, and a pre-recorded program (see column 6, lines 1-9).

As per claims 15, 25, 34, 57 and 77, Picco teaches:

The system of claim 1, wherein the programming signal includes at least one media object containing advertising related content (see column 6, lines 16-41).

As per claim 16, Picco teaches:

The system of claim 1, wherein the transmitting system receives a first media object and second media object from the input port, combines the first media object and the second media object into a composite programming signal and transmits the composite programming signal, whereupon receiving the composite programming signal a receiving system selects one of the first media object and the second media object based upon the user profile (see column 13, lines 1-55).

As per claim 28, Picco teaches:

The system of claim 26, wherein a first media object and a second media object both contain content targeted to a first user profile (see column 13, lines 1-55).

As per claim 61, Picco teaches:

The method of claim 52, wherein the step of identifying a user profile targeted by the media object further comprises:

obtaining user information; and compiling the user information into the user profile (see column 13, lines 40-55; figure 4, item 152).

As per claim 63, Picco teaches:

The method of claim 52, wherein the step of identifying at least one user associated with the user profile is accomplished by a receiving system (see column 13, lines 35-60).

As per claim 64, Picco teaches:

The method of claim 52, wherein the method further comprises storing the media object in a data storage device and retrieving the media object from the data storage device at a designated time for transmitting the media object in the programming signal to the user (see column 6, lines 57-67)

As per claim 69, Picco teaches:

The method of claim 66, wherein the method further comprises obtaining the user profile from a user profiling system in communication with a system selected from the group consisting of: the transmitting system, and a system for receiving the programming signal transmitted by the transmitting system (see figure 4).

As per claims 195-200, Picco teaches:

The method of claim 1, wherein the media object is transmitted in MPEG-4 format (see column 11, line 49 – column 12, line 6).

4.   Claims 58-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Picco et al (U.S. 6,029,045) in view of Flickering (US 2005/0210502) and further in view of Olivier (U.S. 6,480,885).

As per claims 58-60, Picco fails to teach:

The method of claim 52, wherein the method further comprises:

establishing a chat interface between a user and a system transmitting the media object, wherein the chat interface utilizes at least one media object to facilitate communications. However, Olivier teaches a system that allows users to be targeted with customized messages via e-mail, chat or instant messaging based upon the users' profiles (see column 3, lines 5-32). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Picco would use the Olivieri system to target messages to users based upon the users' profiles. This feature would allow users of the Picco system to select the messages that the users would like to receive.

Response to Arguments

5.   Applicant's arguments filed 05/25/2007 have been fully considered but they are not persuasive. The Applicant argues that Flickering does not teach determining a user profile that is targeted by the media object and "wherein the transmitted media object is part of a program composition comprising multiple media objects presented simultaneously and the transmitted media object is targeted separately from at least one

other media object in the composition". The Applicant further explains said limitation by giving an example where a sport car advertisement and classical music may be targeted separately, but to the same user. The Examiner answers that Picco teaches inserting video ads into a video stream and inserting audio ads into a audio stream and transmitting said video and audio stream to a user based upon said user profile (see Picco col 12, lines 25-60) and Flickering teaches a system that replaces existing ads in a MPEG program with alternate ads according to users' profiles, where said alternate ads are inserted directly into a portion of a screen during the actual programming (see Flickering paragraphs 34, 41, 42). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Picco and Flickering would simultaneously target a user with a car advertisement and an audio ad by inserting said car and audio ad into a video and audio stream, and transmitting said video and audio stream to said user during the actual programming of said streams, where said targeting would be based upon said user's profile. Therefore, contrary to Applicant's argument, Picco and Flickering teach the limitation wherein the transmitted media object (i.e. car ad) is part of a program composition comprising multiple media objects presented simultaneously (i.e. actual programming) and the transmitted media object (i.e. car ad) is targeted separately from at least one other media object (i.e. audio ad) in the composition.

Conclusion

6.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-

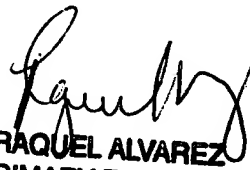6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax

number is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

DC

Daniel Lastra

June 27, 2007

RAQUEL ALVAREZ
PRIMARY EXAMINER